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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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| 08/689,721      | 08/12/1996  | ANDREW M. PERRY      |                     | 9016             |

7590

07/31/2002

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EXAMINER

LUEBKE, RENEE S

| ART UNIT | PAPER NUMBER |
|----------|--------------|
|----------|--------------|

2833

DATE MAILED: 07/31/2002

53

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

08/689,721

Applicant(s)

Perry

Examiner

Renee S. Luebke

Art Unit

2833



-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on June 5 and July 3, 2002.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 11-13 is/are pending in the application.
- 4a) Of the above, claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 11-13 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claims \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some\* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\*See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).  
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s). \_\_\_\_\_ 6) ☐ Other:

1. The submission of the related patent to Sueta, et al. is appreciated. It is noted that an IDS has not been filed.

2. Claims 11-13 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The use of the term "sizing" in claims 11 and 12 is unclear. The ring is not "sized" as a part of the present invention. There is no mechanism present in the invention to allow one to size a particular ring. It appears that applicant intends to indicate that a ring of the proper size is selected. The claims have, for this Office action, been examined in that light.

Claim 13 is the same as claim 11 and will not be allowed in view thereof.

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 11-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over applicant's admitted prior art (AAPA) in view of Dobbins, et al. Applicant has indicated that a known method for suspending a recorder from the neck of a user is to use a string to form a strap to suspend from the user's neck. This string was tied on a loop around the recorder (thereby sizing a ring to have the appropriate diameter). This prior method fails to include the step of pulling apart the recorder and inserting it in the ring prior to

reconnection. However, Dobbins teaches a such a method for the bottle. In particular, Dobbins includes a strap with a ring that is intended to be placed between the cap and the bottle portion prior to its reconnection (see column 4, lines 43-47). This enables attachment of a ring to a middle, narrow portion of the device so that the ring will not come off while it is supporting the device. For the same reason, it would have been obvious to employ such a method in conjunction with the recorder and strap of the prior art (AAPA).

5. **Any response to this action may be mailed to:**

Assistant Commissioner for Patents  
Washington, DC 20231

**or faxed to:**

(703) 872-9318 or 308-7722 or 308-7724  
(informal or draft communications should be clearly labeled "PROPOSED"  
or "DRAFT")

**Hand-delivered responses** should be brought to:

Crystal Plaza 4, Fourth Floor (Receptionist)  
2201 South Clark Place, Arlington, Virginia.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mrs. Renee Luebke at (703) 308-1511. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mrs. Paula Bradley, can be reached at (703) 308-2319.



Renee S. Luebke  
Primary Patent Examiner  
July 22, 2002